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ABSTRACT

The September 11th terrorist attacks on the United States have contributed greatly to a change in the information environment around the world. The weeks following the attacks saw governments around the world rush to pass legislation designed to prevent future acts of terrorism. Much of this legislation targeted information flow, especially on the Internet, in the hope that closer scrutiny of communications traffic would enable security forces to identify possible terrorist action and stop potential atrocities before they occur. While a desire to safeguard law-abiding citizens is not to be dismissed lightly, there is a suspicion that much legislation passed following the attacks consisted of security forces' wishlists from previous years, and that a lot of the measures were rushed through without in depth consideration of the implications for civil liberties. The library community has had much to consider following the passing of the so-called "Anti-terror" acts around the world, and the role of libraries as providers of free, equal and unhampered access to information has been restricted since September 11th. (Contains 24 references.) (Author)

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September 11th, the Internet, and the affects on information provision in Libraries

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Introduction

The September 11th terrorist attacks on the United States have contributed greatly to a change in the information environment around the world. The weeks following the attacks saw governments around the world rush to pass legislation designed to prevent future acts of terrorism. Much of this legislation targeted information flow, especially on the Internet, in the hope that closer scrutiny of communications traffic would enable security forces to identify possible terrorist action and stop potential atrocities before they occur. While a desire to safeguard law-abiding citizens is not to be dismissed lightly, there is a suspicion that much legislation passed following the attacks consisted of security forces' wishlists from previous years, and that a lot of the measures were rushed through without in depth consideration of the implications for civil liberties. The library community has had much to consider following the passing of the so-called 'Anti-terror' acts around the world, and the role of libraries as providers of free, equal and unhampered access to information has been restricted since September 11th.

Post September 11th Legislation

The greatest consequence for libraries as information providers is the USA PATRIOT act passed by the US Congress in October 2001. The PATRIOT act has since become the template for a raft of anti-terror legislation around the world, and a large part of this legislation has concentrated on making surveillance of computer users easier for authorities.

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The law authorities in the US now have greater access to user information held by ISPs and authorisation to spy on web surfing, including terms entered into search engines[1]. This has particularly alarmed civil liberties groups, as the information entered into a computer can be a lot more revealing than dialled phone numbers or received calls. These acts can now be carried out with minimal input from the judiciary, and with a very low level of proof. Library Internet use records and sign in lists can be demanded by authorities and it has been made possible for surveillance software to be installed on library servers if needs be. In particular, it is believed that use of the FBI's Carnivore packet sniffing software has been stepped up to attempt to gain access to suspicious Internet traffic.

On a national scale, the Act greatly expands the use of "roving wiretaps." This means that a wiretap order targeted to a person is no longer confined to a particular computer or telephone. Instead, it may "rove" wherever the target goes, *which may include library computers.* As the PATRIOT act allows courts to issue orders that are valid anywhere in the country libraries are more likely to be exposed to court orders[2].

In the new post-September 11th environment, governments are keen to control more of the information flow on the Internet, both in terms of information provision and also in the records of users' surfing and communications. Following the lead shown by USA PATRIOT, both the UK and France have extended the length of time web users' data can be held by ISPs. Security forces can now more easily access this information and the laws in France effectively make encryption of electronic messages an offence[3]. Both Reporters Sans Frontieres and IFEX have both written to French Interior Minister Nicolas Sarkozy to complain about the "serious attacks on freedom of expression contained within the bill", and French organisation 'Imaginons un Resau Internet Solidaire (IRIS) have collected signatures from almost 1500 individuals and 46 organisations condemning the actions of the French government.[4]

In October, Germany rushed through a bill forcing telecommunications companies to install surveillance software so authorities can better intercept online communications[5]. Spanish anti-globalisation protestors have complained of monitoring by security forces since September 11th who equate them with terrorists[6]. This is a worrying trend for freedom of expression on the Internet.

European Union legislation has also been influenced by September 11th. Alongside the EU convention on Cybercrime - a piece of legislation designed to combat online fraud, hacking and terrorism but under attack from privacy groups for its vague limits on police surveillance powers and unwarranted levels of data collection and storage – is a proposed amendment to a 1997 Directive on Privacy in the Telecommunications Sector that will grant law enforcement agencies access to Internet traffic and communications data previously only kept for clarifying customer bills. This information will now have to be held for longer periods than the previous two-month limit. The amendment is controversial

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[1] Electronic Frontier Foundation. (2001). EFF analysis of the provisions of the USA Patriot Act [Online]. Available: http://www.eff.org/Privacy/Surveillance/Terrorism_militias/20011031_eff_usa_patriot_analysis.html [2002, Jan 14]

[2] Minow, M. (2001). The USA PATRIOT Act and patron privacy on library terminals [Online]. Available: http://www.cla-net.org/pubs/Minow_uspatriotact.html [2002, Aug 13]

[3] Freedom House. (2002). Press freedom registers slight gain despite terrorism and war [Online]. Available: http://www.freedomhouse.org/media/pressrel/042202.htm [2002, April 22]

[4] IFEX. (2002). Alert: RSF warns interior minister of threat to Internet freedom posed by new security law [Online]. Available: http://www.ifex.org/alerts/view.html?id=11023 [2002, Aug 13] and IRIS. (20002). Loi sur la sécurité quotidienne [Online]. Available: http://www.iris.sgdg.org/actions/loi-sec/ [2002, Aug 13]

[5] Gold, S. (2001). German carriers told to install cyber snooping tech. *Newsbytes* [Online]. Available: http://www.newsbytes.com/cgi-bin/udt/im.display.printable?client.id=newsbytes&story.id=171516 [2002, Jan 14]

[6] Statewatch. (2002). State agencies put protestors under extensive Internet surveillance [Online]. Available: http://www.statewatch.org/news/2002/mar/08spain.htm [2002, April 16]

for a number of reasons, not least because President Bush requested the EU implement these powers – that even the USA PATRIOT act does not have - in October 2001[7]. It was initially thought the directive would remain unamended but now increased surveillance powers have been approved, despite critics maintaining the existing text was adequate for combating terrorism[8].

Outside of Europe, Canada's "Law C-36" has also made it easier for intelligence services to monitor an individual's web traffic. Individuals under surveillance are no longer required to be informed they are being investigated[9]. To further tighten Internet controls in Saudi Arabia, all Internet service providers are now required to keep records of all Internet users in order to track access to forbidden web sites[10]. Anti-terror bills have restricted freedom of expression in Indonesia, China, Russia, Pakistan, Jordan, Mauritius, Uganda and Zimbabwe[11]. India's anti-terror bill meanwhile, will punish anyone setting up an 'anti-India' website with 5 years in jail[12]. The early results of America's terrorist crackdown were seen in Somalia where the only Internet company was forced to close until January, along with the only telecommunications company, after its international gateway was blocked and its assets frozen by the US who suspected them of terrorist links[13].

It is the United States however, where librarians have been most affected by the war against terrorism. Since September 11th there has been a reduction in the availability of certain types of information on government websites[14]. Maps, environmental resources, transport information and resources considered to aid terrorists are among the types of information being removed[15]. Federal deposit libraries around the US have been asked to destroy resources considered sensitive in wartime, a move that has caused concern to US librarians[16]. Internet resources made available by non-governmental bodies such as the Federation of US Scientists have been removed, and there are numerous examples of individuals, ISPs and foreign governments closing down websites considered to be linked to terrorists or expressing opinions contrary to government opinion[17]. While the restriction of sensitive information in the public domain is to be expected in the post-September 11th environment, librarians and others are worried that the lack of detailed criteria for what information is to be removed from the

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[7] Statewatch. (2002). European parliament to cave in on data retention [Online]. Available: http://www.statewatch.org/news/index.html [May 29, 2002]

[8] Ibid., AND Mellor, P. (2001). European union set to vote on data law. *New York Times* [Online]. Available: http://www.nytimes.com/2001/11/13/technology/13NET.html [May 29, 2002] AND Sheeres, J. (2002). Europe passes snoop measure. *Wired* [Online]. Available: http://www.wired.com/news/politics/0,1283,52882,00.html?tw=wn_ascii [July 11, 2002]

[9] The International Federation of Human Rights Leagues (2002). The top 15 liberty killing states [Online]. Available: http://www.enduring-freedoms.org/pdf/RAPPORTG.pdf [2002, April 16]

[10] Freedom House. (2002). Press freedom registers slight gain despite terrorism and war [Online]. Available: http://www.freedomhouse.org/media/pressrel/042202.htm [2002, April 22]

[11] Ibid.

[12] Reporters sans Frontiers. (2001). Asia – India – The law against terrorism threatens press freedom [Online]. Available: www.rsf.fr/rk/home.html [2002, Jan 14]

[13] BBC News. (2001). US shuts down Somalia Internet [Online]. Available: http://news.bbc.co.uk/hi/english/world/africa/newsid_1672000/1672220.stm [2002, Jan 14]

[14] BBC News. (2002). US Tightens controls on websites [Online]. Available: http://news.bbc.co.uk/hi/english/sci/tech/newsid_1888000/1888387.stm [2002, March 22]

[15] OMB Watch. (2002). Access to government information post September 11th [Online]. Available: http://www.ombwatch.org/article/articleview/213/1/1/ [2002, April 16]

[16] Kline, G. (2002). Information at risk. *The News Gazette Online* [Online]. Available: http://www.news-gazette.com/ngsearch/story.cfm?number=10892 [2002, April 16] and Radcliffe, J. and Woolfolk, J. (2001). Orders to purge records have librarians worried. *Star-telegram* [Online]. Available: http://web.star-telegram.com/content/fortworth/2001/12/08/topstory/fw010102-1208-XA001-security.htm [2002, Jan 14] and Ombwatch. (2001). The post-September 11th environment: Access to government information [Online]. Available: http://www.ombwatch.org/article/articleview/213/1/1/ [2002, Jan 14]

[17] Electronic Frontier Foundation. (2002). Chilling effects of anti-terrorism [Online]. Available: http://www.eff.org/Privacy/Surveillance/Terrorism_militias/antiterrorism_chill.html [2002, April 16]

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web will make things difficult for people who need information for specific, lawful purposes[18]. Most notably in this case is the opposition, from the American Library Association amongst others, to the executive act signed by President Bush restricting access to the records of former presidents for an indefinite period of time. Freedom of access to information is suffering as a result, and the ALA is supporting a lawsuit to overturn the order[19].

In the months immediately following September 11th there was a comparative lack of comment from the media about proposed legislation, especially in the United States. Now that the effects of passed measures are beginning to be seen the press has begun to carry articles critical of the PATRIOT acts and its 'chilling effects'. Previously however, freedom of expression in the US press seemed to be curtailed, first by the terrorist attacks themselves and then by the government's reaction to them. With White House spokesman Ari Fleischer declaring that "all Americans …need to watch what they say, watch what they do" when commenting on remarks made by a comedian after the attacks, it is perhaps unsurprising that there was an unwillingness on behalf of the traditional media to report anything critical relating to the government's handling of the crisis[20].

Almost straight away though, Internet commentators showed no fear in confronting aspects of US reaction they disagreed with, in particular the USA PATRIOT Act. Due to the ease of publication and expression the Internet offers, it was possible to see new sites springing up every week following September 11th dedicated to understanding the attacks, and then understanding the reaction that followed. Commentary from Alternet, Crisis Report, Counterpunch, and a host of other 'alternative' news sites carried objective reporting almost immediately, and organisations such as the Electronic Freedom Foundation, the National Coalition Against Censorship, OMBWatch, and the American Civil Liberties Union have all carried information relevant to the effects of anti-terror legislation on their websites.

One of the most interesting reports to recently surface came from the San Francisco Chronicle who picked up on a University of Illinois survey of 1,020 public libraries in January and February this year. The survey found that 85 libraries had been asked by federal or local law enforcement officers for information about patrons related to Sept. 11. Visits to libraries by federal agents to check the reading habits of people it suspects of being connected to terrorists are allowed under the PATRIOT Act Section 215. Activities like this are reminiscent of the FBI's library awareness program that ran from 1973 until the late 1980s. The Library Awareness program was an attempt to assess what readers suspected of spying were reading in libraries[21]. The ALA publicly opposed the program and it was dropped, but the PATRIOT Act resurrects the ideals behind it. Librarians are not allowed to comment on FBI visits under threat of prosecution[22], but the report that led to the Chronicle article has raised awareness in the press that activities such as this are going on.

A most interesting example of this is an advert that recently appeared on US television depicting an all-too-possible situation in a library. In the 30 second commercial, produced by The Advertising Council under the banner of 'A Campaign for Freedom', a young man enters a library with a list of books. When he is unable to find them and approaches a librarian for help, she tells him the titles are not available anymore. She then asks him for his name. The advert finishes with the young man backing out of the library to be intercepted by two would-be FBI agents who want to 'ask him some

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[18] Associated Press. (2002). Fed sites told to seal info. Wired [Online]. Available: http://www.wired.com/news/politics/0,1283,51236,00.html?tw=wn_ascii [2002, March 21]
[19] American Library Association. (2002). ALA raises red flag on recent Bush executive order [Online]. Available: http://www.ala.org/news/v8n3/executiveorder.html [2002, March 1]
[20] Pittman, A. (2001) Stop the presses. *Alternet* [Online]. Available: http://www.alternet.org/story.html?StoryID=11955 [2002, Aug 13]
[21] Egelko, B. (2002) FBI begins secretly observing library patrons. *Detroit Free Press* [Online] Available: http://www.freep.com/news/nw/probe25_20020625.htm [2002, Aug 13]
[22] Newton, C. (2002). FBI begins to visit libraries to monitor reading habits of those it suspects of being tied to terrorism. *Associated Press* [Online] Available: http://ap.tbo.com/ap/breaking/MGA13VCZU2D.html [2002, Aug 13]

questions'. The advert, which caused some discussion on bulletin boards over whether or not it was actively critical of US government action or instead was am illustration of what happens in the 'less free' parts of the world, carries the tagline 'Freedom. Appreciate it. Cherish it. Protect it'.

The international library community has not been silent on the issue of freedom of access to information post-September 11th either. The ALA has been carrying many resources relating to the PATRIOT Act and its fallout on its website, and issued a statement affirming the importance of libraries, freedom of speech and access to information immediately following the attacks[23]. The IFLA/FAIFE statement on Terrorism, the Internet and Free Access to Information laid emphasis on the ability of libraries to offer much needed information facilities in the aftermath of the terrorist attacks[24]. With many governments choosing to use the opportunity presented by the terrorist attacks to tighten legislation relating to information and freedom of expression this situation is one that we as a profession must continue to monitor and play a part in. Only by safeguarding access to information can we maintain the ideal of intellectual freedom that is a core responsibility of the library community.

Websites, comment and opinion on the fallout for freedom of expression following Sept 11th.

http://www.ncac.org/issues/freeex911.html Constantly updated
(National Coalition Against Censorship index of free expression after September 11th)

http://www.crisisreport.org/ Constantly updated
(Open-minded news on the war against terrorism from a global perspective)

http://www.ncac.org/issues/freeex911.html Regularly updated
(An online index of free expression after September 11th)

http://www.eff.org/Privacy/Surveillance/Terrorism_militias/antiterrorism_chill.html Regularly updated
(Chilling effects of anti-terrorism on the media and Internet)

http://www.statewatch.org/observatory2.htm Regularly updated
(Statewatch.org highlights new laws & practices affecting civil liberties and rights after 11 September in the EU, UK and US)

http://www.ombwatch.org/article/articleview/213/1/1/ Irregularly updated
(OMBWatch – monitoring government accountability)

http://www.thefire.org/issues/terror.php3 Irregularly updated
(After effects of September 11th on freedom of expression in Colleges and Universities)

http://www.adcouncil.org/campaigns/campaign_for_freedom/
(Download the library advert from The Advertising Council's 'Campaign for Freedom')

[23] American Library Association. (2001) Library community statement on freedom of speech and access to information [Online]. Available: http://www.ala.org/washoff/FreedomofSpeech9.pdf [2002, Aug 13]
[24] IFLA. (2001) IFLA statement on terrorism, the Internet and freedom of access to information [Online]. Available: http://www.ifla.org/faife/news/ifla_statement_on_terrorism.htm [2002, Aug 13]

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